

Message

From: Merchant, Bruce [MerchantB@kalamazoocity.org]
Sent: 4/3/2013 12:09:02 PM
To: Berkoff, Michael [berkoff.michael@epa.gov]
CC: Wetzel, Michael C. [WetzelM@kalamazoocity.org]; Saric, James [saric.james@epa.gov]; Carlson, Janet [carlson.janet@epa.gov]; Tanaka, Joan [Tanaka.Joan@epa.gov]; Frey, Rebecca [frey.rebecca@epa.gov]
Subject: RE: Revisions to draft minutes of March 12 EPA-City meeting on Allied Landfill

Michael –

Thank you for the email. I guess I'm not quite sure what will be discussed at the telephone conference. I assume work is progressing on the questions that have been sent to you and answers to those questions would be the most helpful. Are there specific topics you want to discuss during the teleconference? The City Commission has taken a strong stand on the proposed draft FS and the proposed remedy 2A.

I should hear back later today on the Mayor's availability for next week and I will let you know the potential dates.

Bruce

From: Berkoff, Michael [mailto:berkoff.michael@epa.gov]
Sent: Tuesday, April 02, 2013 2:40 PM
To: Merchant, Bruce
Cc: Wetzel, Michael C.; Saric, James; Carlson, Janet; Tanaka, Joan; Frey, Rebecca
Subject: RE: Revisions to draft minutes of March 12 EPA-City meeting on Allied Landfill

Bruce,

Here are our responses to the comments/questions in your March 29, 2013 email message. Jan Carlson (the staff attorney for Allied Landfill) and I would be happy to have a telephone conference with you if you want to discuss these issues further.

I am back in the office and understand that the plan is for those of us at the March 12, 2013 meeting to reconvene via videoconference. Given that you indicated that we need one week to work out any IT-related issues for a videoconference, have you identified any potential dates for a videoconference next week?

Thanks,
Michael

COMMENT: In reviewing your proposed changes, I have several comments and questions. On page 2, near the top where the discussion regarding the EQ proposal for \$118 Million was noted, you have suggested that the phrase "... investigated and ultimately rejected due to various concerns and issues ..." be deleted. Has the USEPA not rejected the EQ proposal? It has been indicated to the City (and I believe in several public meetings) that the EQ proposal was not feasible from USEPA's perspective and had already been eliminated as an option. Please let me know if the USEPA has modified its position on the EQ proposal.

Response: We do not recall this topic being discussed at our March 12 meeting and apologize for any confusion on this point. USEPA included and evaluated the "total removal" alternative in the FS, which continues to be under consideration in addition to the other alternatives identified in the FS. Following completion of the FS, EPA will issue a proposed plan for public comment whose purpose is to provide the public with a reasonable opportunity to comment on the preferred alternative for remedial action, as well as the other alternatives in the

FS. Staff anticipates that Alternative 2B will be identified as the preferred alternative; however the total removal alternative will be in the FS, under consideration and subject to public comment in addition to Alternative 2B. USEPA has not yet selected the remedy for OU1.

COMMENT: I am also a bit perplexed by the comments on page 3 regarding the monies that will be provided to the State of Michigan. I don't recall any discussion regarding the current ongoing maintenance at OU-1 other than the City's request for information regarding ongoing annual operation & maintenance costs at the site. I also don't recall (nor does Mike Wetzel) any discussion regarding the specific amount of \$1.67 million dollars. Was this allocation from the bankruptcy court in addition to the \$50 million allocated for clean-up activities at OU-1 or separate from those monies? Also, I assume this was a lump sum allocated to the State of Michigan for operation & maintenance activities for the time frame between the bankruptcy settlement and implementation of the proposed remedy. If so, how much of the \$1.67 Million has already been spent by the State of Michigan at OU-1? Would the City be able to obtain this information directly from the State of Michigan?

Response: We miscommunicated the details of the bankruptcy settlement during the meeting. Paragraph 18 of the Lyondale Bankruptcy Settlement Agreement discusses the allocation of funds to the Environmental Custodial Trust for the Allied Paper Mill Site, summarized below.

\$50,050,000 Custodial Trust Response Cost Account (USEPA - Lead Government Agency)

\$2,000,000 Custodial Trust Restoration Cost Account (Federal Trustee – Lead Government Agency)

\$1,671,850 Custodial Trust MDNRE Cost Account (MDNRE – Lead Government Agency)

You may contact Polly Sync, Michigan Attorney General's Office, regarding use of the funds allocated to the State.

COMMENT: I am also unclear as to the clarification provided, again on page 3, under item 3) indicating that "... a detailed groundwater monitoring plan will not be developed until the remedial design phase ...". While I appreciate the clarification to a certain degree, the alternative phrasing provided makes it seem that there hasn't been any discussion regarding any future monitoring plans for OU-1. I am aware that the City and USEPA have already had numerous discussions regarding proposed future groundwater monitoring plans and has offered several ideas as to what should be included. The phrasing provided seems to imply that no such discussions have occurred nor will any of the ideas already expressed be considered. I am hopeful that the City will receive more than cursory input into such a critical part of any plan especially as it relates to protection of the City's main wellfield.

Response: The wording was not meant to imply that such discussions have not occurred, but to clarify when a detailed monitoring plan would be developed. At our March 12 meeting we stated that the remedy will call for a robust monitoring system, and that USEPA will work out the specifics with the City during the design phase. At that time, we anticipate working with the City on the details of the monitoring network. This will also be a chance to see how the network fits into the other networks in Kalamazoo.

From: Merchant, Bruce [mailto:MerchantB@kalamazoocity.org]

Sent: Friday, March 29, 2013 7:28 AM

To: Frey, Rebecca

Cc: Wetzel, Michael C.; Berkoff, Michael; Saric, James; Carlson, Janet; Tanaka, Joan

Subject: RE: Revisions to draft minutes of March 12 EPA-City meeting on Allied Landfill

Dear Becky -

Thank you for your response to the draft minutes that I prepared from our March 12, 2013 meeting.

In reviewing your proposed changes, I have several comments and questions. On page 2, near the top where the discussion regarding the EQ proposal for \$118 Million was noted, you have suggested that the phrase ". . . investigated and ultimately rejected due to various concerns and issues . . ." be deleted. Has the USEPA not rejected the EQ proposal? It has been indicated to the City (and I believe in several public meetings) that the EQ proposal was not feasible from USEPA's perspective and had already been eliminated as an option. Please let me know if the USEPA has modified its position on the EQ proposal.

I am also a bit perplexed by the comments on page 3 regarding the monies that will be provided to the State of Michigan. I don't recall any discussion regarding the current ongoing maintenance at OU-1 other than the City's request for information regarding ongoing annual operation & maintenance costs at the site. I also don't recall (nor does Mike Wetzel) any discussion regarding the specific amount of \$1.67 million dollars. Was this allocation from the bankruptcy court in addition to the \$50 million allocated for clean-up activities at OU-1 or separate from those monies? Also, I assume this was a lump sum allocated to the State of Michigan for operation & maintenance activities for the time frame between the bankruptcy settlement and implementation of the proposed remedy. If so, how much of the \$1.67 Million has already been spent by the State of Michigan at OU-1? Would the City be able to obtain this information directly from the State of Michigan?

I am also unclear as to the clarification provided, again on page 3, under item 3) indicating that ". . . a detailed groundwater monitoring plan will not be developed until the remedial design phase . . .". While I appreciate the clarification to a certain degree, the alternative phrasing provided makes it seem that there hasn't been any discussion regarding any future monitoring plans for OU-1. I am aware that the City and USEPA have already had numerous discussions regarding proposed future groundwater monitoring plans and has offered several ideas as to what should be included. The phrasing provided seems to imply that no such discussions have occurred nor will any of the ideas already expressed be considered. I am hopeful that the City will receive more than cursory input into such a critical part of any plan especially as it relates to protection of the City's main wellfield.

I will take into consideration some of the suggested changes and incorporate some of them into the final draft. I will ensure that you receive a copy of those revised minutes as well.

Thank you.

Bruce Merchant

From: Frey, Rebecca [frey.rebecca@epa.gov]

Sent: Wednesday, March 27, 2013 5:02 PM

To: Merchant, Bruce

Cc: Wetzel, Michael C.; Berkoff, Michael; Saric, James; Carlson, Janet; Tanaka, Joan

Subject: Revisions to draft minutes of March 12 EPA-City meeting on Allied Landfill

Hi Bruce,

Thank you for drafting the minutes of our March 12 meeting regarding the Allied Landfill. The EPA project team has reviewed the draft minutes, and our suggested changes to the minutes are attached. Note that the revised minutes correct a few misstatements during the meeting (e.g., the amount of money the State was allocated from the Lyondell bankruptcy was \$1.67M instead of \$3M) and clarify some other issues. For your convenience, I'm attaching both a redline version and a clean version of the revised draft minutes.

Since Michael is out of the office all this week, please let me know if you have any questions/concerns with the revisions. I'll be in the office all day Thursday, but will be out on Friday.

Also, we would like to try to have our follow-up meeting with you, the Mayor, and Mike via videoconference. I'll work to get that set up as soon as we can agree on a date that works for everyone (and knowing that we'll need at least a week to make sure all IT issues are resolved).

Thanks again,
-Becky

Becky Frey
Chief, Remedial Response Section #3
Superfund Division
EPA Region 5
312-886-4760
frey.rebecca@epa.gov

Confidentiality: The information contained in this electronic mail message and any attachments is intended only for the use of the individual or entity to which it is addressed and may contain legally privileged, confidential information or work product. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution, or forwarding of the Email message is strictly prohibited. If you have received this message in error, please notify me by Email reply, and delete the original message from your system.

Confidentiality: The information contained in this electronic mail message and any attachments is intended only for the use of the individual or entity to which it is addressed and may contain legally privileged, confidential information or work product. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution, or forwarding of the Email message is strictly prohibited. If you have received this message in error, please notify me by Email reply, and delete the original message from your system.